

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----x  
5316 CHURCH AVENUE, LLC,

Plaintiff,

-against-

DIANE YHUN and the CITY OF NEW  
YORK PARKING VIOLATIONS  
BUREAU and RIKI DI LLC,

Defendants.

-----x  
**BLOCK, Senior District Judge:**

Magistrate Judge Reyes has issued a Report and Recommendation (“R&R”) recommending that Diane Yhun’s liability on a note held by 5316 Church Avenue, LLC (“5316 Church”), be fixed at \$820,784.25 plus interest of \$256.36 per day until the property securing the note is sold. The R&R advised that objections were due within fourteen days of service and warned that “[f]ailure to file timely objections waives the right to appeal the District Court’s order.” R&R 9. The R&R was served electronically on July 18, 2018, making objections due August 1, 2018. To date, no objections have been filed.<sup>1</sup>

---

<sup>1</sup> While not formally objecting to the R&R, 5316 Church notes that it calculates Yhun’s liability as of November 1, 2017, but recommends that per diem interest run from November 30, 2017. The Court agrees that the latter date is a typographical error, and that per diem interest should run from November 1, 2017.

Where clear notice has been given of the consequences of failure to object, and there are no objections, the Court may adopt the R&R without de novo review. *See Thomas v. Arn*, 474 U.S. 140, 149-50 (1985); *Mario v. P & C Food Mkts., Inc.*, 313 F.3d 758, 766 (2d Cir. 2002) (“Where parties receive clear notice of the consequences, failure timely to object to a magistrate’s report and recommendation operates as a waiver of further judicial review of the magistrate’s decision.”). The Court will, however, excuse the failure to object and conduct de novo review if it appears that the magistrate judge may have committed plain error. *See Spence v. Superintendent, Great Meadow Corr. Facility*, 219 F.3d 162, 174 (2d Cir. 2000).

No error, plain or otherwise, appears on the face of the R&R. Accordingly, the Court adopts the R&R, with the modification that per diem interest shall accrue from November 1, 2017. The Clerk shall enter judgment accordingly, in the form proposed by 5316 Church.

**SO ORDERED.**

/S/ Frederic Block  
FREDERIC BLOCK  
Senior United States District Judge

Brooklyn, New York  
November 27, 2018